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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

LVDG SERIES 114 established under  
LVDG, LLC,

Plaintiff(s),

v.

ANN M. WRIGHT, et al.,

Defendant(s).

2:13-CV-1775 JCM (NJK)

**ORDER**

Presently before the court is the matter of *LVDG Series 114 v. Wright, et al*, case no. 2:13-cv-1775-JCM-NJK. This case involves an HOA foreclosure and subsequent sale pursuant to NRS 116.3116.

On November 13, 2013, the court entered an order denying plaintiff's motion for a preliminary injunction and granting defendants' motion to dismiss. (Doc. # 22). Plaintiff filed a notice of appeal. (Doc. #25). On December 11, 2013, plaintiff filed an emergency motion for preliminary injunction pending appeal. (Doc. # 27).

Plaintiff asks the court to enter an injunction pending appeal pursuant to Fed. R. App. P. 8(a)(1). When considering an injunction pending appeal, the first factor a district court evaluates is the movant's likelihood of success on the merits. *See Humane Soc. of U.S. v. Guitierrez*, 558 F.3d 896 (9th Cir. 2009) (citing *Winter v. N.R.D.C.*, 129 S. Ct. 365, 374–76 (2008)).

1 Although the court recognizes the Ninth Circuit's "sliding scale" test, that test still requires  
2 an evaluation, at least to some degree, of the likelihood of success on the merits. As described in  
3 the order dismissing the case, this court has consistently rejected the legal theory plaintiff relies on.  
4 (*See* doc. # 22). Thus, plaintiff has not demonstrated it enjoys a high enough likelihood of success  
5 on the merits to warrant the extraordinary remedy it seeks.

6 Accordingly,

7 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that plaintiff's emergency motion  
8 for a preliminary injunction (doc. # 27) be, and the same hereby is, DENIED.

9 DATED December 13, 2013.

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12 **UNITED STATES DISTRICT JUDGE**